



INFORMAL BID REQUEST

WEATHERIZATION AND WINDOWS FOR FIRE STATION No. 8

Bid No. 298-SUS-ARRA-EECBG-06-2010

(This is a **RE-BID** of Bid No. 298-SUS-ARRA-EECBG-04-2010)

This project is funded under the American Recovery and Reinvestment Act of 2009

Submittal Address: Linda Fowler
Project Manager
Energy Retrofit Projects
City of Asheville
70 Court Plaza
2nd Fl.
P.O. Box 7148
Asheville, NC 28801

Bid Due Date:
Monday, August 2, 2010
5:00 p.m.

MANDATORY PRE-BID CONFERENCE:
Monday, July 26, 2010
9:00 a.m.. (followed by site visit)
Fire Dept. Headquarters
100 Court Plaza
4th Fl. Classroom
Asheville, NC 28801

Inquiries: All inquires and questions about the bid solicitation must be submitted in writing by email to Linda Fowler at lfowler@ashevillenc.gov.

**CITY OF ASHEVILLE, NORTH CAROLINA
OFFICE OF SUSTAINABILITY**

Bid No. 298-SUS-ARRA-EECBG-06-2010

(This is a RE-BID of Bid No. 298-SUS-ARRA-EECBG-04-2010)

INFORMAL BID REQUEST

WEATHERIZATION FOR FIRE STATION No. 8

The U.S. Department of Energy, as part of the American Recovery and Reinvestment Act (ARRA) has granted funds to the City of Asheville, North Carolina, for energy retrofit work to be performed at several city-owned facilities in Asheville, N.C. Increased energy efficiency, reduced energy consumption and reduced energy costs through efficiency improvements in building is a high priority in this project in addition to job creation and increased productivity to spur economic growth and community development.

The City of Asheville is seeking the services of a qualified weatherization firm to perform a building analysis of Fire Station 8, weatherization and furnace testing and develop a plan for implementation of appropriate measures to reduce energy consumption at Fire Station 8, 904 Tunnel Rd., Asheville, NC.

The U.S. Department of Energy requires all work of the projects, including design and construction, to be completed by December 31, 2010. (See Exhibit A, U.S. DEPARTMENT OF ENERGY SPECIAL TERMS AND CONDITIONS-FINANCIAL ASSISTANCE, SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.)

Davis Bacon wage rates apply to this project. See Exhibit B for applicable wage rates.

All bids will be received by the City of Asheville, Office of Sustainability, until 5:00 p.m. local time on Monday, August 2, 2010.

BID FORM

City of Asheville, NC Office of Sustainability

Bid Request No.: 298-SUS-ARRA-EECBG-06-2010

Due Date: Monday, August 2, 2010 at 5:00 p.m.

Request for Bids: Weatherization and Windows for Fire Station 8, 904
Tunnel Rd., Asheville, NC.

Item	Description	Bid Price
Weatherization	Testing, evaluation and weatherization of the building to include core components as listed in the Specification.	\$
Windows	Provide and install windows per Specification	\$

Company Name:
Address:
City, State, Zip:
Telephone No.:
Web Address:
Submitted By: (Signature)
Print Name & Title:
Email address:
Fax No.:
Contractor License #
Federal Taxpayer ID:
DUNS #:

BID CONDITIONS

1. The City of Asheville will receive bids on this project until 5:00 p.m., Monday, August 2, 2010. Bids will not be publically opened. Bidders will be contacted following the review committee evaluation.
2. A **MANDATORY** Pre-bid Conference will be held at 9:00 a.m., Monday, July 26, 2010 at Fire Department Headquarters, 4th Floor Classroom, 100 Court Plaza, Asheville, NC. This conference will be followed by a site visit to Fire Station 8.
3. The Contractor shall be properly licensed and skilled in their respective trade, and shall have been established in the building construction field for a minimum of three years and must regularly engage in building construction contracting in North Carolina. Provide documentation of licensing.
4. Contractor must have adequate trained and certified staff assigned to the project to complete the work of the contract. Provide a list of staff to be assigned to this project and their certifications in the field.
5. The City of Asheville reserves the right to evaluate all bids especially where there is a wide range in specifications or to reject any and all bids and proposals, and further specifically reserves the right to make the award and/or awards in the best interest of the City of Asheville.
6. All bidders must have a DUNS number. This number shall be listed in the Bid Form. A DUNS number may be obtained at www.dnb.com
7. All bid prices must be guaranteed for a minimum of sixty (60) days from the date of bid opening.
8. All things not expressly stated in the attached specifications, General Conditions or Special Terms and Conditions but involved in carrying them out must be included in bidder's proposal as though they were specifically stated.

The Bid package shall be provided in the following format.

1. The check list of bid requirements filled out and signed by the bidder's representative.
2. The fully executed Bid Form, which is included in this package.
3. All Amendments, if any, to the bid documents issued by the City of Asheville. Amendments must be signed.
4. Documentation of City of Asheville license number and license classification. To qualify for bidding the City requires a minimum of three years experience in the business of the contract sought. If the successful bidder is not currently licensed in the City of Asheville, a City licensed must be obtained prior to performing work.
5. A listing of relevant experience for three (3) previously completed similar commercial projects. Key personal, partnerships with other firms, references and project costs must be included for each project. A contact person must be provided for the owner of each project. This person shall be someone who worked closely with the project and the contracting firm. Provide full contact information for each reference: mailing address, email address (if available), and telephone number.

6. A list of company personnel who will be assigned to the City of Asheville project and their individual qualifications to perform the work of the contract. List certifications, if any.
7. Provide technical information regarding the proposed windows, such as cut sheets, and documentation that the windows and their component parts are manufactured in the United States, as is required by ARRA funding.
8. A signed statement that guarantees bid prices for no less than sixty (60) days from the date of bid opening.
9. MBE/WBE forms, as required. Forms shall be fully executed and notarized. Participation by local and/or minority business should be indicated by percentage and type of work to be performed.
10. Submit a signed original bid and five (5) complete copies.

Weatherization and Window Replacement: Fire Stations 8
Bid Request No.: 298-SUS-ARRA-EECBG-06-2010

Date:

Bid Conditions and Requirements Checklist

Company: _____ **Included**
Signature: _____ **in**
Bid ?

1.	Check list is signed and included in the bid package	
2.	Bid is on the Bid Form	
2.1	The Bid Form is fully completed	
3.	All Amendments to the bid, signed and included in the package	
4.	City of Asheville license number and license classification provided	
4.1	Proof of three years business experience	
5.	Proof of Relevant Experience:	
5.1	3 Projects listed	
5.2	Descriptions of each project	
5.3	Full contact information for each project	
5.4	Project Costs for each project listed	
5.5	Key Personnel for each job	
6.	Key personnel for the Solar Thermal projects	
6.1	Qualifications listed for each person	
7	Technical specifications for the windows	
7.1	Documentation that the windows and component parts are manufactured in the USA.	
8.	Signed Bid Guarantee for sixty (60) days	
9.	MBE/WBE participation information is included with the bid	
9.1	MBE/WBE form A is filled out completely, is signed, notarized and included in the bid package	
9.2	The MBE/WBE form that applies to your bid is filled out completely, is signed, notarized and included in the bid package	
10.	The original bid and five (5) copies are included in the package	
11.	Bidder attended Mandatory Pre-bid Conference	

PROJECT SPECIFICATIONS

Scope of Work

The Contractor shall furnish all labor, material, equipment, supervision, permits and insurance necessary to perform the work described in Bid Specifications attached hereto and made a part hereof and shall perform such work in accordance with all drawings and/or the specifications. The Contractor shall inspect the project and be aware of the existing conditions and the extent of the work to be performed. The project is to *perform analysis of energy use conditions at Fire Station 8 and propose a list of prioritized weatherization measures for the building to achieve energy savings. The contractor will then work with City staff to determine the measures to be implemented and will complete the proposed work. Remove existing windows and replace with new windows per enclosed specification.*

Testing, evaluation and installation of weatherization measures for Fire Station 8.

Submit a bid price for the following work:

Perform an energy audit, air infiltration testing, and building analysis to assess existing conditions at Fire Station 8. The analysis shall provide quantifiable documentation of existing conditions in the building prior to the performance of weatherization work.

Develop a prioritized list of measures to be implemented at the Station based on the information obtained from the initial testing and evaluation and from the inspection of the building made during the pre-bid walk through.

Provide an estimate of the anticipated reduction in energy costs that may be expected as a result of the weatherization work.

A second analysis shall be performed at the completion of weatherization work to document reduction of air infiltration and projected energy usage.

As a part of the bid, weatherization contractors shall include the installation/performance of the following:

1. Install building insulation in walls, floors, and ceilings, around ducts and pipes, around water heaters, and near the foundation and sill as required to achieve a condition as close as possible to current building code requirements. Close existing openings as may be required to facilitate installation of insulation. Type of insulation appropriate to each space to be proposed by the contractor.
2. Seal penetrations between attic and living space, especially around doors, windows, and pipes that penetrate the attic ceiling, and other areas with high potential for heat loss to reduce air infiltration.

3. Clean, repair and adjust furnaces and air conditioning systems to attain most efficient operational settings for both high and low fire stages. Seal ducts as needed.
4. Remove any unused duct work and vents and seal related penetrations.
5. Provide ventilation as needed to unconditioned spaces to prevent condensation.
6. Install/replace dampers in exhaust ducts, to prevent outside air from entering the building when the exhaust fan or clothes dryer is not in use.
7. Insulate pipes as needed to prevent freezing.

Replacement Window Specifications

1. Remove eight (8) existing single pane windows, approximately 4' x 10'. Four located on the east side of the building and five located on the west side the building.
2. Remove one (1) existing single pane windows, approximately 4' x 7', located on the east side of the building at the utility room housing the hot water heater.
3. Remove one (1) fixed glazed panel located over the kitchen door on the east side of the building.
4. Install new replacement glazing systems in the nine locations referenced in Items 1 & 2 above. New replacement systems shall be composed of fiberglass, metal clad or vinyl frames with fixed glazing over operable awning, Low E, Argon filled, white interior and exterior, no grid. Total size approximately 49" x 83". Awning window size approximately same as existing.
5. Install over eight of the windows listed in Item 4 above, beginning at the elevation of the drop ceiling, new fiberglass, metal clad or vinyl frames with fixed glazing, Low E, Argon filled, white interior and exterior, no grid. Size approximately 49" x 41". Exclude the utility room from this requirement; utility room now has a fixed hard panel in this location. Hard panel to remain.
6. Install one new replacement panel over the kitchen door listed in Item 2 above. Panel to be new fiberglass, metal clad or vinyl frame with fixed glazing, Low E, Argon filled, white interior and exterior, no grid.
7. Patch and touch up paint to match existing finishes as needed around the replacement windows.
8. New windows to be Energy Star rated.
9. All sizes listed are approximate. All measurements to be field verified by contractor. City of Asheville assumes no responsibility for size of replacement windows.

MAILING INSTRUCTIONS

1. Bidder to submit a complete, fully executed and signed bid document.
2. If mailed, bid should be forwarded by certified U. S. Postal Service. Please address and mark your bid as shown below.

**Linda Fowler
Project Manager
Energy Retrofit Projects
City of Asheville
70 Court Plaza
2nd Fl.
P.O. Box 7148
Asheville, NC 28801**

Bid No. 298-SUS-ARRA-EECBG-06-2010

**WEATHERIZATION and WINDOWS
FIRE STATION No. 8**

3. If forwarded other than by U.S. Postal Service, delivery must be made directly to City of Asheville, 70 Court Plaza, Room 301, Asheville, North Carolina 28801.

GENERAL CONDITIONS AND REQUIREMENTS

1. General Conditions

a. This Agreement embodies all the representations, rights, duties, and obligations of the parties. Any prior oral or written agreement not embodied herein shall not be binding upon or endure to the benefit of any of the parties.

b. The Contractor shall be properly licensed and skilled in their respective trade, and shall have been established in the building construction field for a minimum of three years and must regularly engage in building construction contracting in North Carolina.

c. The work shall be stated so as to minimize inconvenience to the City. Access as required by the City to the facility shall be maintained by the Contractor throughout construction unless prior written approval is otherwise obtained in advance. The Contractor shall provide signs, barricades, and warning devices to ensure safe passage for both vehicular and pedestrian traffic at all times.

d. The Contractor shall make necessary provisions to protect the surrounding area and shall be responsible for full restoration of any damages and/or costs of restoration to the construction site. All damages on the site, incidental to the installation of the work described in the attached Exhibit shall be repaired or replaced by the Contractor.

e. The Contractor shall make necessary provisions to protect structures and property from any and all damage arising out of, relating to, or resulting from this work. Also, all debris, rubbish or waste materials shall be removed from the site by the Contractor and at the Contractor's expense.

f. All sales tax levied on materials entering into this project shall be paid by the Contractor, including the Optional Sales and Use Tax.

g. Contractors shall obtain any applicable license and/or permits prior to the start of construction and shall notify the necessary inspectors at the proper times during construction.

h. Contractor shall obtain a written certificate of compliance upon completion of the permitted work and before final payment is made.

i. The Contractor shall at all times keep the premises free from accumulations of waste materials or rubbish caused by his employees at work; and at the completion of the work, he shall remove all his rubbish from and about the building and all his tools, scaffolding and surplus materials and shall leave the premises "broom clean" or its equivalent. It is further agreed that all materials and equipment that have been removed and replaced as a part of the work hereunder shall belong to the Contractor, unless otherwise specified in the work described in Exhibit "A".

j. The Contractor shall, upon completion of the work, and before final payment is authorized by the City or its agent, furnish the City with an affidavit certifying that all charges for materials and any other expenses incurred by the Contractor pertaining to the execution of this Agreement have been paid in full, to the end that no liens of any kind or character (save and except those between the parties hereto) may be affixed against the above described property. Final payment on the Agreement amount will be made only after final inspection and acceptance of all work to be performed by the Contractor, and the Contractor submits satisfactory releases of liens or claims for liens by the Contractor, subcontractor, laborers, and materials suppliers.

2. Warranties and Guarantees

All work is to be warranted and guaranteed against materials, equipment, and workmanship for a period of one (1) year. Any and all manufacturers' warranties shall be assigned to the City.

The Contractor will be required to provide to the City, upon termination, an executed release of lien before final payment is processed.

3. Minority Business Plan

The City of Asheville has adopted a Minority Business Plan to encourage participation by women and minority businesses in the award of contracts. Bidders are hereby notified that this bid is subject to the provisions of that Plan. Questions regarding the Minority Business Plan may be directed to the Coordinator for the Minority Business Program, City of Asheville, Post Office Box 7148, Asheville, NC 28802-7148 or by phone at (828) 232-4566 or by e-mail at minoritybusiness@ashevillenc.gov. *You can access two sources for certified minority firms at www.ips.state.nc.us/ips/vendor/searchvendor.aspx?t=h and www.doa.state.nc.us/hub to search for vendors.* It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs and (2) prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

4. Right to Audit

Contractor shall maintain all fiscal records relating to this Agreement in accordance with Generally Accepted Accounting Principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The City shall have a right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.

5. **Bid Evaluation**

The City reserves the right to evaluate all bids especially where there is a wide range in specifications or to reject any and all bids and proposals, and further specifically reserves the right to make the award and/or awards in the best interest of the City of Asheville.

SPECIAL TERMS AND CONDITIONS

Weatherization Fire Station 8 City of Asheville, NC

1. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the instructions to Bidders, Special Terms and Conditions specific to this Invitation for Bids, the specifications, and General Contract Terms and Conditions. The City of Asheville objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any response appearing in or attached to the document as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of a proposal, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect. It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **ISSUING OFFICE:** This bid request is issued by the City of Asheville Office of Sustainability, 70 Court Plaza, 2nd Floor, P. O. Box 7148, Asheville, North Carolina 28802. All correspondence and inquiry should be made to: Linda Fowler at lfowler@ashevillenc.gov, telephone (828) 337-2676.
3. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the City of Asheville Office of Sustainability. Technical inquiries may be directed to the individual named herein. Any and all revisions to this document shall be made only by written addendum from the City of Asheville Office of Sustainability. **Therefore, no oral statements by any person shall modify or otherwise affect the terms, conditions, or specifications stated in this request for bids and proposals.** The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.
4. **COMPLIANCE WITH RULES AND REGULATIONS:** The equipment furnished must comply with all applicable provisions of the American Recovery and Reinvestment Act of 2009. Attention is directed to the requirement for the use of American made materials in the performance of this contract. The contractor

will be required to provide documentation that materials used in this project are manufactured and assembled in the United States.

5. **GENERAL REQUIREMENTS:** The equipment furnished shall be new and unused and the manufacturer's latest listed and published stock model, or models which meet all the applicable requirements of these specifications.
6. **NONCONFORMING TERMS AND CONDITIONS:** A bid response that includes terms and conditions that do not conform to the terms and conditions in this bid document is subject to rejection as nonresponsive. The City of Asheville reserves the right to permit the bidder/vendor to withdraw nonconforming terms and conditions from its bid response prior to a determination by the City of Asheville of non-responsiveness.
7. **BIDDERS SUBMITTALS:** Bidder must furnish all information requested herein including descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection. All documents submitted should bear the name of the bidder.
8. **EXPENSES INCURRED IN PREPARING BID:** The City of Asheville accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the bidder.
9. **CONTRACT/AWARD:** Pursuant to the laws governing public contracts in North Carolina, the successful bidder's/vendor's response to this Request for Bids and Proposals and any addenda thereto, plus the City's issuance of a City of Asheville signed contract for the proposed goods and/or services shall constitute a binding contract.
10. **INDEMNIFICATION:** The bidder/vendor covenants to save, defend, keep harmless, and indemnify the City of Asheville and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties and cost - including court costs and attorney's fees, charges, liability, and exposure, however, caused resulting from, arising out of, or in any way connected with the bidder's/vendor's negligent performance or nonperformance of the terms of the contract.
11. **ASSIGNMENT:** During the performance of the contract, the bidder/vendor shall not assign, transfer, convey, sublet, or otherwise dispose of any award or any or all of its rights, title, or interest therein, without the prior written consent of the City of Asheville.
12. **VENDOR APPLICATION AND PRIVILEGE LICENSE:** Bidders/vendors that have not previously submitted (within last 12 months) a vendor's application

and/or privilege license should download an application from the City website at www.ashevillenc.gov and submit with their bid.

13. The vendor shall be responsible for seeing that any and all laws of the State of North Carolina concerning certificate of origin, title, transit or transportation documents, et al, are complied with in all respects.
14. **WARRANTY:** Bidder to include the warranty provisions as outlined in bid specifications.
15. **TAX EXEMPTIONS:** The City of Asheville is exempt from Federal Excise Tax but not State and Local Sales Tax.
16. **SUBMITTALS:** Bidders to submit one (1) **original bid package and five (5) complete copies.**
17. **INSURANCE REQUIREMENTS:** The successful bidder shall, during the performance of the contract and for three (3) years following acceptance of the product, keep in force at least the following minimum limits of commercial general liability insurance:
 - a. Commercial General Liability: \$1,000,000 (Products and Completed Operations)
 - b. Umbrella Liability: \$1,000,000
 - c. Workers Compensation: Statutory
 - d. Employer's Liability: \$500/\$500/\$500
 - e. Automobile Liability: \$1,000,000

Liability Coverage shall be written on a Commercial General Liability form and must include finished products/completed operations. The policy shall be written on an occurrence form and shall include Contractual Liability coverage.

The required limits can be provided by one or more policies provided all other insurance requirements are met.

Coverage shall be provided by a carrier(s) rated "Excellent" by A.M. Bests. **Within 14 days following notice of award, the successful bidder shall furnish the City of Asheville with a current Certificate of Insurance with coverages listed above.** The certificate shall be an original, no photocopies shall be accepted. The designated certificate holder shall be: City of Asheville, Attn: Risk Management Division, P.O. Box 7148, Asheville, NC 28802. The Certificate of Insurance shall provide that the City be given 30 days advance notice of cancellation, nonrenewal or material change in coverage.

24. **EVALUATION AND SELECTION OF BIDS:** The evaluation of vendor bids shall center on the match between the stated specifications and other requirements

included in the final bid request and the vendor's proposal including selection of the lowest responsible bidder. The statutory provisions controlling purchasing by local governments in N. C. (GS 143) includes selection standards for use in making of awards. The provision reads, "All contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract". The City of Asheville reserves the right to accept or reject any or all bids and proposals and further specifically reserves the right to make the award or awards in the best interest of the City of Asheville.

25. **All bids shall be made firm for no less than sixty (60) days.**
26. **DRUG-FREE WORKPLACE:** The City of Asheville is a drug-free workplace employer. The Asheville City Council has also adopted a policy requiring City construction and service contractors to provide a drug-free workplace in the performance of any City contract.
 - A. Notifying employees that the unlawful manufacturer, distribution dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken for violations of such violation.
 - B. Establishing a drug-free awareness program to inform about the dangers of drug abuse in the workplace, the contractor's policy of maintaining of drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and penalties that may be imposed upon employees for a drug violation.
 - C. Notifying each employee that as a condition of employment, the employee will abide by the terms of prohibition outlined in (A) above and notify the contractor of any criminal drug statute conviction for a violation occurring in the workplace not later than (5) days after such conviction.
 - D. Notifying the City of Asheville within ten (10) days after receiving from an employee a notice of criminal drug statute conviction or after otherwise receiving actual notice of such conviction.
 - E. Imposing a sanction on or requiring the satisfactory participation in drug counseling, rehabilitation or abuse program by, an employee convicted of a drug crime.
 - F. Making a good faith effort to continue to maintain a drug-free workplace for employees. If the prospective vendor is an individual, the drug-free workplace requirement is met by not engaging in the unlawful manufacturer, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

If the prospective vendor is an individual, the drug-free workplace requirement is met by not engaging in the unlawful manufacturer, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

By submitting a bid, a prospective primary vendor certifies that it and all sub-vendors will comply with the City of Asheville drug-free workplace requirement. A false certification or the failure to comply with the above drug-free workplace requirements during the performance of the contract shall be grounds for suspension, termination, or debarment

27. MINORITY BUSINESS PARTICIPATION: The City of Asheville has adopted a Minority Business Plan to encourage participation by minority businesses in the award of contracts. Bidders are hereby notified that this bid is subject to the provisions of that Plan. Questions regarding the Minority Business Plan may be directed to the Minority Business Coordinator, at 828-232-4566 or to the City of Asheville Purchasing Division Office at 828-259-5950. It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs, and (2) prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

28. DUNS Number: A Dun and Bradstreet number is required of all bidders on this project.

City of Asheville Minority Business Program **Minority Business Compliance Requirements – Building** **Construction Only**

Effective January 1, 2002, Senate Bill 914 went into effect for *building construction projects*. Our office is modeling the forms provided from the Office of State Construction in order to make usage easier in our area. We additionally have a 72-hour delay for minimum compliance, which means that some forms are not due until after the opening of the bid documents. The Bidder must provide, with the bid, the 'Listing of Good Faith Efforts' (Form A) and either the 'Intent to Perform Contract with Own Workforce' (Form B) or the 'Identification of Minority Business Participation' (Form C).

The following is a description of the Minority Business Forms and what a bidder must do to submit a responsible bid:

- **Form A (Listing of Good Faith Efforts):**
This affidavit provides ways in which the general contractor can actively work to increase participation by minority and women owned firms. For building construction projects subject to GS143-128.2, the bidder must earn at least 50 points for their bid to be considered responsive. *Must be included with the Bid.*
- **Form B (Intent to Perform Contract with Own Workforce):**
This affidavit certifies that the bidder can perform the work without the use of subcontracting. *No additional forms are needed beyond this form after bids are opened.*
- **Form C (Identification of Minority Business Participation):**
This form is due at bid opening if you will be subcontracting work. Within 72-hours of the bid opening, the bidder must submit the 'Portion of the Work to be Performed by Minority Firms' (Form D) or the 'Good Faith Efforts Documentation' (Form E) depending on the utilization of certified minority firms. *Please read forms carefully.*
- **Form D (Portion of the Work to be Performed by Minority Firms):**
This affidavit is to be provided 72-hours after bid opening by the lowest bidder if the portion of work is equal or greater than the percentages set forth in the Minority Business Plan.
- **Form E (Good Faith Efforts):**
This affidavit is to be provided 72-hours after bid opening by the lowest bidder if the portion of work is less than the percentages set forth in the Minority Business Plan.
- **Minority Business Documentation for Contract Payments – For Office Use Only:**
The Minority Business Program Coordinator will send this form quarterly to contractors for payment information on subcontracts with certified minority firms on City of Asheville projects. If you have questions, please contact our office at (828) 232-4566 or Fax (828) 350-0030 or by email at minoritybusiness@ashevillenc.gov.

Goals	City of Asheville
<u>Construction</u>	
African Americans	3%
Hispanic, Asian & Native Americans	1%
Women	8%
<u>Procurement</u>	
African Americans	5%
Hispanic, Asian & Native Americans	2%
Women	18%
<u>Professional Services</u>	
African Americans	7%
Hispanic, Asian & Native Americans	7%
Women	37%
<u>Other Services</u>	
African Americans	10%
Hispanic, Asian & Native Americans	2%
Women	18%

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid

Listing of Good Faith Efforts (Form A)

Building Construction Only

Affidavit

of _____

(Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

(Bidders on Construction Projects Only must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive.)

- ☐ 1 – (10 pts) Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- ☐ 2 --(10 pts) Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- ☐ 3 – (15 pts) Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- ☐ 4 – (10 pts) Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☐ 5 – (10 pts) Attended pre-bid meetings scheduled by the public owner.
- ☐ 6 – (20 pts) Providing assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- ☐ 7 – (15 pts) Negotiated in good faith with interested minority businesses and not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ 8 – (25 pts) Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ 9 – (20 pts) Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☐ 10 - (20 pts) Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

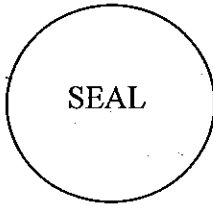
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the **Identification of Minority Business Participation** schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____
_____ 20 _____

Notary Public _____

My commission expires _____

Attach to Bid if Not Subcontracting Attach to Bid if Not Subcontracting Attach to Bid if Not Subcontracting

Intent to Perform Contract with Own Workforce (Form B)
Building Construction Only

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the

contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

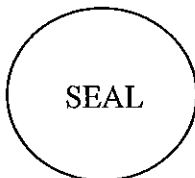
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public _____

My commission expires _____

Attach to Bid if Subcontracting	Attach to Bid if Subcontracting Subcontracting	Attach to Bid if Subcontracting	Attach to Bid if
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Identification of Minority Business Participation (Form C)

Building Construction Only

I, _____
(Name of Bidder)

do hereby certify that on this project, we will use the following minority business enterprises as construction subcontractors, vendors, suppliers or providers of professional services for the City of Asheville on

(Project Name)

Firm Name, Address and Phone #

Work type

*Minority Category

[illegible]

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A), American Indian (I), and Women (W)

The total value of minority business contracting will be \$ _____ or _____ % of

our firm's total bid

price of \$ _____.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____

Portion of the Work to be Performed by Minority Firms **(Form D)** **Building Construction Only**

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by minority businesses as defined in GS143-128.2(g) is **equal to or greater than the percentage set forth by the Minority Business Plan (see below)** of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

City of Asheville – African Americans – 3%; Hispanic, Asian & Native Americans – 1%; Women – 8%

Affidavit of _____ I do hereby
 certify that on the _____
 (Name of Bidder)

(Project Name) _____
 Project ID# _____ Amount of Bid \$ _____

I will expend a minimum of _____ % of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required.

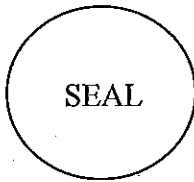
Name and Phone Number	*Minority Category	Work description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**)
 American Indian (**I**) and Women (**W**)

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



Signature: _____

Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

Good Faith Efforts (Form E)

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goals set forth by the Minority Business Plan for participation by minority businesses **are not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts 72-hours following the date of bid:

Affidavit of: _____
(Name of Bidder)

I do certify the attached documentation as true and accurate representation of my good faith efforts.
(Attach additional sheets if required)

Name and Phone Number	*Minority Category	Work description	Dollar Value

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A)
American Indian (I), and Women (W)

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions. Examples of documentation include, but are not limited to, the following evidence:

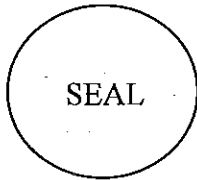
- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____
_____ 20 _____

Notary Public _____

My commission expires _____

Exhibit A

U.S. DEPARTMENT OF ENERGY

SPECIAL TERMS AND CONDITIONS – FINANCIAL ASSISTANCE

SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Recipients should begin planning activities for their first tier subrecipients, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the recipient believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

Definitions

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds -- the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly

or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal Government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

Special Provisions

A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward.

B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions that relate to, the subcontract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

E. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for

evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to: Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds;
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and

Reinvestment Act of 2009, Pub. L. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.).

G. Request for Reimbursement

Recipients must provide information with its submission of the SF-270, Request for Advance or Reimbursement, to identify the portion of the request that is associated with Recovery Act projects.

H. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

I. Information in Support of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

J. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

K. RESERVED

L. RESERVED

REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first-tier subrecipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

**RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF
FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING
SUBRECIPIENTS**

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A-- 102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-- 133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A--133. OMB Circular A--133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

**REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS -- SECTION
1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) Definitions. As used in this award term and condition--

(1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been--

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams,

plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference. (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111--5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:
none

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that--

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act. (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including--

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description (dollars)*	Unit of measure	Quantity	Cost
---------------------------	-----------------	----------	------

Item 1:

Foreign steel, iron, or manufactured good _____

Domestic steel, iron, or manufactured good _____

Item 2:

Foreign steel, iron, or manufactured good _____

Domestic steel, iron, or manufactured good _____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[*Include all delivery costs to the construction site.]

WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts.

Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A--102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A--133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A--133. OMB Circular A--133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

DAVIS BACON ACT REQUIREMENTS

Note: Where necessary to make the context of these articles applicable to this award, the term "Contractor" shall mean "Recipient" and the term "Subcontractor" shall mean "Subrecipient or Subcontractor" per the following definitions.

Recipient means the organization, individual, or other entity that receives an award from DOE and is financially accountable for the use of any DOE funds or property provided for the performance of the project, and is legally responsible for carrying out the terms and conditions of the award.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations).

Davis-Bacon Act

(a) Definition.--"Site of the work"--

(1) Means--

(i) The primary site of the work. The physical place or places where the construction called for in the award will remain when work on it is completed; and

(ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is--

(A) Located in the United States; and

(B) Established specifically for the performance of the award or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided--

(i) They are dedicated exclusively, or nearly so, to performance of the award or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph

(a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal award or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a award.

(b) (1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work,

regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the award was performed at that site and shall be incorporated without any adjustment in award price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this article; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill; except as provided in the article entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this article) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(c) (1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the award shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (c)(2) and (c)(3) of this article shall be paid to all workers performing work in the classification under this award from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the award for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

Rates of Wages

See Attachment "B", Davis Bacon Wage Determination.

The minimum wages to be paid laborers and mechanics under this award involved in performance of work at the project site, as determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the pertinent locality, are included as an attachment to this award. These wage rates are minimum rates and are not intended to represent the actual wage rates that the Contractor may have to pay.

Payrolls and Basic Records

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the article entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written

evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any award work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this article. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the -- Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the award and shall certify --

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this article and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the award during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the award.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this article.

(4) The falsification of any of the certifications in this article may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this article available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

Withholding of Funds

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this award or any other Federal award with the same Prime Contractor, or any other

federally assisted award subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the award. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the award, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

Apprentices and Trainees

(a) Apprentices.

(1) An apprentice will be permitted to work at less than the predetermined rate for the work they performed when they are employed--

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this article, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

(5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees.

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

(3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this article shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this award.

Subcontracts (Labor Standards)

(a) Definition. "Construction, alteration or repair," as used in this article means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation--

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the "site of the work" as defined in the article entitled Davis Bacon Act of this award, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the "site of work" definition; and (5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the "site of the

work" definition in paragraph (a)(1)(ii) of the Davis-Bacon Act article, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the Davis Bacon Act article, in the "site of the work" definition).

(b) The Contractor or subcontractor shall insert in any subcontracts for construction, alterations and repairs within the United States the articles entitled--

(1) Davis-Bacon Act;

(2) Contract Work Hours and Safety Standards Act -- Overtime Compensation (if the article is included in this award);

(3) Apprentices and Trainees;

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination -- Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Davis-Bacon and Related Act Regulations; and

(11) Certification of Eligibility.

(c) The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the award articles cited in paragraph (b).

(d)(1) Within 14 days after issuance of the award, the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the articles set forth in paragraph (b) of this article have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this article, including this paragraph (e) in all subcontracts for construction within the United States.

Contract Termination -- Debarment

A breach of the award articles entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act -- Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the whole award or in part for the Recovery Act covered work only, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.
Compliance with Davis-Bacon and Related Act Regulations

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this award.

Disputes Concerning Labor Standards

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes and Appeals as defined in 10 CFR 600.22. Disputes within the meaning of this article include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

Certification of Eligibility

(a) By entering into this award, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government awards by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this award shall be subcontracted to any person or firm ineligible for award of a Government award by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Approval of Wage Rates

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under this award must be submitted for approval in writing by the head of the contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the award. Any amount paid by the Contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Contractor and shall not be reimbursed by the Government. If the Government refuses to authorize the use of the overtime, the Contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

EXHIBIT B - DAVIS BACON WAGE DETERMINATION

Request For Wage Determination And
Response To Request
(Davis Bacon Act as Amended and Related Statutes)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



**FOR DEPARTMENT
OF LABOR USE**

Response To Request

☐ Use area determination issued for this area

☒ The attached decision noted below is applicable to this project

Decision Number

SA009-NC-001

Date of Decision

12/11/2009

Expires

02/27/2010

Supersedes Decision Number

A009-NC-001

Approved

Shirley Ebbesen

Shirley Ebbesen
Director, Division of
Wage Determinations

Mail Your Request To:

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Branch of Construction Contract Wage Determinations
Washington, D.C. 20210

Requesting Office (Typed name and signature)
Lisa Kuznier Lisa.Kuznier@dol.gov

Department, Agency, or Bureau
Department of Energy/National Energy Technology Laboratory

Lisa Kuznier
Phone Number
304-285-4242

Date of Request

08/11/2009

Estimated Advertising Date

Estimated Bid Opening Date

Prior Decision Number (if any)

N/A

Estimated \$ Value of Contract

☐ Under 1/2 Mil ☐ 1 to 5 Mil
☐ 1/2 to 1 Mil ☒ Over 5 Mil

Type of Work

☐ Bldg. ☐ Highway
☒ Resid. ☐ Heavy

Address to which wage determination should be mailed: (Print or type)

3610 Collins Ferry Rd.
PO Box 880
Morgantown, WV 26507
Fax Number
304-285-4683

Location of Project (City, County, State, Zip Code)

State of North Carolina - all counties

Description of Work (Be specific) (Print or type)

RESIDENTIAL WEATHERIZATION CONSTRUCTION

Describe the work to be performed. Minor repairs, batt insulation, blown insulation, window & door repair and weatherstripping; air sealing; caulking; replacement of windows, doors, furnace/cooling major overhaul or replacement; furnace/cooling tune up and repair; electrical repairs; minor or incidental structural repairs; plumbing work; duct sealing and/or repair and/or replacement.

CHECK OR LIST CRAFTS NEEDED
(Attach continuation sheet if needed)

- Asbestos workers
- Boilermakers
- Bricklayers
- Carpenters
- Cement masons
- Electricians
- Glaziers
- Ironworkers
- Laborers (Specify classes)
- HVAC Mechanic
- Lathers
- Marble & tile setters, terrazzo workers
- Painters
- Piledrivers
- Plasterers
- Plumbers
- Roofers
- Sheet metal workers
- Soft floor layers
- Steamfitters
- Welders-rate for craft
- Truck drivers
- Power equipment operators (Specify types)
- Weatherization Worker
- Other Crafts

NORTH CAROLINA RESIDENTIAL WEATHERIZATION WAGE DETERMINATION

This project wage determination is issued in response to a request from the Department of Energy (DOE) for prevailing wage rates specific to weatherization of residential structures as those structures are defined in the All Agency Memorandum 130 and 131. This wage determination has application only to weatherization construction projects on existing residential structures as described in the SF 308 submitted by DOE. The primary purpose of the project for which this wage determination is being issued is weatherization and is not for the renovation, repair, or new construction of residential structures. All other types of residential construction projects are subject to the published general residential wage determinations for the State of **North Carolina** found on www.wdol.gov.

General weatherization work for purposes of this wage determination is defined as minor repairs, batt insulation, blown insulation, window and door repair, and weather stripping, solar film installation, air sealing, caulking, minor or incidental structural repairs, duct sealing, air sealing, installation of light bulbs, and installation of smoke detectors. In **North Carolina**, the Department's recent survey determined as a matter of prevailing practice that these duties are performed by a weatherization worker classification.

Additionally, specialty weatherization work is defined as the (1) replacement of doors and windows; (2) installation and repair of furnace/cooling (HVAC) systems and all associated work involved with the installation of the HVAC system including electrical, pipe, and duct work. In **North Carolina**, the Department's recent survey determined that the duties described by (1) above are performed by a Window and Door Replacement Worker and by (2) above by a HVAC Worker in those counties where sufficient data was submitted in response to the survey. However, in the remaining counties where insufficient data was submitted, a classification and rate for a worker who performs the full range of HVAC duties can not be established based on survey data.

Wage payment data submitted for the State of **North Carolina** included wage data information for a weatherization crew chief classification. This classification of worker is essentially a working foreman who performs the same tasks as the weatherization worker, but who is responsible for supervision, job oversight, forms completion, work assignments, and quality assurance. The additional duties are not "laborer or mechanic" work as defined by the Davis-Bacon and related Acts regulations, but are more supervisory in nature. The Department issues various classifications of workers when the duties are defined and distinct from all other classifications of workers on the wage determination. The "laborer or mechanic" duties of the crew chief are not sufficiently distinct to warrant the issuance of a separate classification on the wage determination. Moreover, the Department does not issue separate wage determinations based on a worker's skill, experience or individual training. Therefore, the weatherization crew chief is not listed as a separate classification of worker. The weatherization crew chief must be classified as a weatherization worker and paid at least the applicable wage determination rate of the weatherization worker when performing weatherization work. There is no restriction however to paying the weatherization crew chief more than the weatherization worker wage rate listed on the wage determination.

The rates listed on this wage determination are the minimum rates that may be paid the listed classification for the work performed. Wage rates are based strictly on work performed and are not based on the employee's level of experience, seniority, ability, etc. There are no levels of rates for this work. Workers performing the work described are due at least the minimum rates listed.

The following is a key to the chart below. Each county in the state is listed in alphabetical order on the far left side of the chart. There are two main columns separated by a bold line with the left column labeled **Weatherization Survey Wage Determination** and the right column labeled **Existing Residential Wage Determination**.

The three classifications listed under the **Weatherization Survey Wage Determination** column are the classifications and rates determined to be prevailing for weatherization work and are based on wage data submitted in response to the weatherization survey. Weatherization work, as well as the specific duties that may be performed by these three classifications, is defined on this project decision. The rate information under each classification is the basic hourly rate and fringe benefit (if fringe benefits were found to be prevailing). If there is no wage rate or fringe benefit listed under the classification column, usually the HVAC Worker, then there was no data or insufficient data from which to establish a rate and/or fringe benefit for that classification. If the work performed by that classification is needed for the project, then an additional classification request (conformance) must be made. **NOTE:** Classifications and rates listed under the Existing Residential Wage Determination Column may not be used for unlisted classifications/work in the Weatherization Survey Wage Determination column. See below for the procedure for requesting additional classifications and the form to request these classifications.

The classifications listed under the **Existing Residential Wage Determination** column are those classifications and rates currently published as prevailing on the residential general wage determinations. These wage determinations may be found at www.wdol.gov. The classifications and rates listed under the Existing Residential Wage Determination column may be used on weatherization projects only in those situations where the work is **different than that described for the three classifications listed under the Weatherization Survey Column**. For example, when an electrician is needed to perform electrical work not associated with the installation, repair, or overhaul of furnace or cooling equipment, then the existing electrician classification and rate listed under this column may be used for that work. The rate information under each classification is the basic hourly rate and a fringe benefit (if fringe benefits were found to be prevailing). If there is no wage rate or fringe benefit listed under the classification column, then there was no data or insufficient data from which to establish a rate and/or fringe benefit for that classification. If that unlisted classification is needed for the project, then a request for an additional classification (conformance) should be made. See below for the procedure for requesting additional classifications and the form to request these classifications.

Any unlisted classifications and rates (conformances) needed for work not listed on the chart below may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)). The procedure for requesting approval of an unlisted classification and rate (conformance) as well as a "pdf" copy of the form (SF Form 1444) may be found at <http://www.dol.gov/esa/whd/recovery/>. The SF Form 1444 may be sent to the Department electronically, by facsimile, or by mail. Electronic submissions should be sent to 09WeatherizationSurvey@dol.gov. Facsimile submissions should be sent to (202) 693-1432. Mailed forms should be sent to the address listed in Block 1 of the SF Form 1444. Any SF Form 1444 submitted for weatherization projects should be marked as being for weatherization projects and the project decision being used for the project should also be submitted with the SF Form 1444.

Weatherization Survey Wage Determination (S2009-NC-001)			Existing Residential Wage Determination (www.wdol.gov)			
Counties	Weatherization Worker	Doors & Windows Installation Worker	HVAC Duct, Water Heater, Furnace Installation	Carpenter (Excludes Door & Window Replacement, and work listed as performed by weatherization worker)	Electrician (Excludes electrical work associated with HVAC installation, overhaul, and work listed as performed by weatherization worker)	Plumber (Excludes work associated with HVAC installation, repair or overhaul and work listed as performed by weatherization worker)
Alamance	\$12.93+3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Alexander	\$12.00	\$12.00		\$7.25	\$7.25	\$7.25
Alleghany	\$10.54+1.05	\$10.54+1.05		\$7.25	\$7.25	\$7.25
Anson	\$15.00 +.29	\$15.00 + .29		\$7.25	\$7.25	\$7.25
Ashe	\$10.54+1.05	\$10.54 + 1.05		\$7.25	\$7.25	\$7.25
Avery	\$10.54+1.05	\$10.54+1.05		\$7.25	\$8.25	\$7.25
Beaufort	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Bertie	\$12.42+3.05	\$12.42+3.05		\$7.25	\$7.25	\$7.25
Bladen	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Brunswick	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Burcombe	\$13.64+5.30	\$13.64+5.30		\$7.25	\$8.25	\$7.25
Burke	\$12.00	\$12.00	\$11.00+1.25	\$7.25	\$7.25	\$7.25
Cabarrus	\$15.00 +.29	\$15.00 + .29		\$7.25	\$7.25	\$7.25
Caldwell	\$12.00	\$12.00	\$11.00+1.25	\$7.25	\$7.25	\$7.25
Camden	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Carteret	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Caswell	\$14.41+3.35	\$14.41+3.35		\$7.25	\$7.25	\$7.25
Catawba	\$12.00	\$12.00		\$7.25	\$7.25	\$7.25

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Weatherization Survey Wage Determination (S2009- NC- 001)				Existing Residential Wage Determination (www.wdol.gov)		
Counties	Weatherization Worker	Doors & Windows Installation Worker	HVAC Duct, Water Heater, Furnace Installation	Carpenter *(see page 3)	Electrician *(see page 3)	Plumber *(see page 3)
Chatham	\$9.45+3.80	\$9.45+3.80		\$7.25	\$7.25	\$7.25
Cherokee	\$11.25 + 3.14	\$11.25 + 3.14		\$7.25	\$7.25	\$7.25
Chowan	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Clay	\$11.25 + 3.14	\$11.25 + 3.14		\$7.25	\$7.25	\$7.25
Cleveland	\$11.29+ .16	\$11.29+ .16		\$7.25	\$7.25	\$7.25
Columbus	\$11.29+ .16	\$11.29+ .16		\$7.25	\$7.25	\$7.25
Craven	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Cumberland	\$12.53	\$12.53		\$7.25	\$7.25	\$7.25
Currituck	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Date	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Davidson	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Davie	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Duplin	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Durham	\$10.00 + 2.10	\$10.00 + 2.10		\$8.41	\$9.69+0.40	\$8.93+0.65
Edgecombe	\$13.78+3.09	\$13.78+3.09		\$7.25	\$7.25	\$7.25
Forsyth	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Franklin	\$14.41+3.35	\$14.41+3.35		\$8.41	\$9.69+0.41	\$8.93+0.66
Gaston	\$15.00 + .29	\$15.00 + .29		\$7.25	\$7.25	\$7.25
Gates	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Graham	\$11.25 + 3.14	\$11.25 + 3.14		\$7.25	\$7.25	\$7.25
Granville	\$14.41 + 3.35	\$14.41 + 3.35		\$7.25	\$7.25	\$7.25
Greene	\$13.78+3.09	\$13.78+3.09		\$7.25	\$7.25	\$7.25
Guilford	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Halifax	\$12.42+3.05	\$12.42 + 3.05		\$7.25	\$7.25	\$7.25
Harnett	\$11.29+ .16	\$11.29+ .16		\$7.25	\$7.25	\$7.25
Haywood	\$10.50	\$15.00	\$12.78	\$7.25	\$8.25	\$7.25
Henderson	\$13.64+5.30	\$13.64+5.30		\$7.25	\$8.25	\$7.25
Hertford	\$12.42+3.05	\$12.42 + 3.05		\$7.25	\$7.25	\$7.25
Hoke	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Hyde	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25

Weatherization Survey Wage Determination (S2009- NC- 001)				Existing Residential Wage Determination (www.wdol.gov)		
Counties	Weatherization Worker	Doors & Windows Installation Worker	HVAC Duct, Water Heater, Furnace Installation	Carpenter *(see page 3)	Electrician *(see page 3)	Plumber *(see page 3)
Iredell	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Jackson	\$10.50	\$15.00	\$12.78	\$7.25	\$8.25	\$7.25
Johnston	\$12.45	\$12.45		\$7.25	\$7.25	\$7.25
Jones	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Lee	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Lenoir	\$13.78 + 3.09	\$13.78 + 3.09		\$7.25	\$7.25	\$7.25
Lincoln	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Macon	\$10.10+4.92	\$10.10+4.92		\$7.25	\$7.25	\$7.25
Madison	\$13.64+5.30	\$13.64+5.30		\$7.25	\$8.25	\$7.25
Martin	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
McDowell	\$10.54+1.05	\$10.54+1.05		\$7.25	\$8.25	\$7.25
Mecklenburg	\$15.00 +.29	\$15.00 +.29		\$7.25	\$7.25	\$7.25
Mitchell	\$10.54+1.05	\$10.54 + 1.05		\$7.25	\$8.25	\$7.25
Montgomery	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Moore	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Nash	\$13.78+3.09	\$13.78+3.09		\$7.25	\$7.25	\$7.25
New Hanover	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Northampton	\$12.42+3.05	\$12.42 + 3.05		\$7.25	\$7.25	\$7.25
Onslow	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Orange	\$9.45+3.80	\$9.45+3.80		\$8.41	\$9.69+0.42	\$8.93+0.67
Pamlico	\$11.10+3.94	\$11.10+3.94		\$7.25	\$7.25	\$7.25
Pasquotank	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Pender	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Perquimans	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Person	\$14.41+3.35	\$14.41+3.35		\$7.25	\$7.25	\$7.25
Pitt	\$13.78+3.09	\$13.78+3.09		\$7.25	\$7.25	\$7.25
Polk	\$10.54+1.05	\$10.54+1.05		\$7.25	\$7.25	\$7.25
Randolph	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Richmond	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Robeson	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25

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Weatherization Survey Wage Determination (S2009- NC- 001)				Existing Residential Wage Determination (www.wdol.gov)		
Counties	Weatherization Worker	Doors & Windows Installation Worker	HVAC Duct, Water Heater, Furnace Installation	Carpenter *(see page 3)	Electrician *(see page 3)	Plumber *(see page 3)
Rockingham	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Rowan	\$14.23+2.04	\$17.00+3.41		\$7.25	\$7.25	\$7.25
Rutherford	\$10.54+1.05	\$10.54+1.05		\$7.25	\$7.25	\$7.25
Sampson	\$12.53	\$12.53		\$7.25	\$7.25	\$7.25
Scotland	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Stanly	\$15.00 +.29	\$15.00 + .29		\$7.25	\$7.25	\$7.25
Stokes	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Surry	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Swain	\$11.25 +3.14	\$11.25 +3.14		\$7.25	\$7.25	\$7.25
Tennessee	\$13.64+5.30	\$13.64+5.30		\$7.25	\$8.25	\$7.25
Tyrell	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Union	\$15.00 +.29	\$15.00 + .29		\$7.25	\$7.25	\$7.25
Vance	\$14.41+3.35	\$14.41+3.35		\$7.25	\$7.25	\$7.25
Wake	\$12.45	\$12.45		\$8.41	\$9.69+0.43	\$8.93+0.68
Warren	\$14.41+3.35	\$14.41+3.35		\$7.25	\$7.25	\$7.25
Washington	\$12.90 + 3.49	\$12.90 + 3.49		\$7.25	\$7.25	\$7.25
Watauga	\$10.54+1.05	\$10.54+1.05		\$7.25	\$7.25	\$7.25
Wayne	\$13.78 + 3.09	\$13.78 + 3.09		\$7.25	\$7.25	\$7.25
Wilkes	\$10.54+1.05	\$10.54+1.05		\$7.25	\$7.25	\$7.25
Wilson	\$11.29+.16	\$11.29+.16		\$7.25	\$7.25	\$7.25
Yadkin	\$12.93 + 3.04	\$14.27+3.09		\$7.25	\$7.25	\$7.25
Yancey	\$10.54+1.05	\$10.54+1.05		\$7.25	\$8.25	\$7.25

